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Corporate Social Responsibility in Times of Covid-19

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ABSTRACT

This article elaborates on the idea of CSR in current times. This article also traces as to how has it become an important issue for the corporate houses and the government. India has been one of those handful of nations which has legislated on CSR and made it compulsory for companies of a certain stature to do CSR related activities which clearly depicts the seriousness of the Indian government towards promoting corporate citizenship. Likewise India, several other nations like United Kingdom, South Africa, China, Sweden and Denmark have also enacted laws to deal with Corporate Social Responsibility. During the times of Covid-19 pandemic, various questions and issues arose regarding the inclusion of different types of activities done and donations made as CSR under Section 135 and 467 of the Companies Act, 2013. Most hyped issue was related to the inclusion of PM CARES Fund and CM CARES Fund within the ambit of CSR for the purposes of Section 135 and 467 of the Companies Act, 2013. This article deals with this recent matter in much detail.

Keywords: *Corporate, Social, Responsibility, Companies, Citizenship, Business, Fund, Section, Relief, Donation, Schedule*

I. INTRODUCTION

Let CSR refers to the business model managed by oneself independently which aids a corporate enterprise in establishing itself as being a socially aware and accountable enterprise to its stakeholders and the public at large³. It is also known as corporate citizenship⁴. The term CSR is a wide and comprehensive term which adapts itself as per the nature of the different industries. Howard Bowen, famous as the father of CSR, defines it as the set of duties of the businessmen to adhere to such policies and actions which are in consonance with the aims, objectives and benefit of the society at large⁵. However in simple terms, engaging in CSR activities means to perform such activities or conduct the business in such a

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³ James Chen, "Corporate Social Responsibility (CSR)", Investopedia (August 9, 2020, 02:00 pm) <https://www.investopedia.com/terms/c/corp-social-responsibility.asp>

⁴ Ibid

⁵ Ahmad Aminu, Hamidu and Md. Harashid, Haron and Azlan, "Corporate Social Responsibility: A Review on definitions, core characteristics and theoretical perspectives", Munich Personal REPEC Archive (August 9, 2020, 02:15 pm) https://mpra.ub.uni-muenchen.de/75040/1/MPRA_paper_75040.pdf

manner that the company or business enterprise makes a positive contribution towards the society and the environment while also boosting the brand value and image of the business enterprise or company. CSR activities also foster a tough relation between the employees and business enterprise, boost their spirit and also make them feel connected and responsible towards the outside world⁶. CSR does not only imply doing donations and attending different charitable events, but it also means acting as responsible citizens by envisioning future plans in light of social and economic justice for the benefit of the society⁷. CSR thus extends much further than mere compliance with the environmental standards laid down for the respective industries.

CSR activities are now being carried out consciously by the companies and business enterprises in order to boost their brand image and thus establish themselves as a socially aware and responsible corporate in the country. It is an indisputable fact that active indulgence in CSR activities has only worked in favour of the corporate which is the reason why the idea has been readily accepted by a large chunk of the business fraternity.

II. CSR LAWS IN INDIA

Before the enactment of any law by the Parliament, CSR in context of India was considered as a mere philanthropic activity as the traditions in India emphasized on the morals which are to be adhered to while conducting any business. On 29th August 2013, The Companies Act, 2013 replaced the prior Act of the year 1956. This new law incorporated the Section 135 which deals with CSR obligations of companies which have been listed in India. With the introduction of Section 135⁸, India became the first country to form a legislation on the issue of CSR and thus make it mandatory for companies fulfilling a certain set of criteria to perform CSR activities. Under Section 135(1)⁹, any business enterprise having a net wealth of INR 5 billion or more, turnover of INR 10 billion or more or a net profit of INR 50 million or more during the immediate preceding financial year have to form a Corporate Social Responsibility Committee (CSR) of the Board of Directors or BOD comprising of a minimum three directors out of which one has to be compulsorily independent. Foreign business enterprises which are registered under Section 2(42)¹⁰ which have their branch or

⁶ Supra 1

⁷ Dr. Muhammad Tariq Khan, Dr. Naseer Ahmed Khan, Sheraz Ahmed and Mehfooz Ali, "Corporate Social Responsibility (CSR) – Definition, Concepts and Scope (A Review)", *Universal Journal of Management and Social Sciences*, Vol. 2, No.7, July 2012

⁸ The Companies Act, 2013

⁹ Ibid

¹⁰ Ibid

project office in the country and fulfil the yardsticks laid down in Section 135(1)¹¹ have to comply with provisions related to CSR as laid down in Section 135¹².

III. CSR LAWS IN OTHER COUNTRIES

Few countries around the world have legislated on the issue of CSR in order to promote the concept of positive corporate citizenship. In United Kingdom, CSR is considered as a part of the working of the corporate. The Companies Act 2006 in UK hereby mandates it for the directors of the company to lay emphasis on and give due regards to community and environment related issues along with their duty to promote their company's success¹³. The Danish Financial Statement Act 2001 lays down that the companies and business enterprises of a particular size and range must reveal the status of their CSR practices in a yearly report. This legislation also makes it compulsory for the aforesaid companies to disclose the fact if they did not carry out any CSR activities¹⁴. The Danish Government has made laws to make companies accountable towards the human rights policies and environmental issues. The CSR strategy of European Commission is based on the protocols and principles laid down by the United Global Compact, United Nations Guiding Principles on Business and Human Rights, ISO 26000 Guidance Standard on Social Responsibility and OECD Guidelines for Multinational Enterprises¹⁵. In United States of America, the CSR department in Bureau of Economic and Business Affairs (EB) manages the relationship of the Department with various U.S. business enterprises with regards to the evolution of responsibility and ethics in the world of business. The EB is a source of guidance and support for those American corporate houses which are aiming forward to develop optimistic CSR policies¹⁶. Several other countries like France, China and South Africa have also enacted provisions for the mandatory disclosure of the amount spent on CSR activities for companies of a particular stature¹⁷.

IV. CSR IN TIMES OF COVID-19 PANDEMIC

During the tough times when the entire world has been suffering from severe public health crisis due to Covid-19 pandemic, the prime role of large business houses and companies has

¹¹ Ibid

¹² Ibid

¹³ Hency Thacker, "CSR Policies Around The World", *The CSR Journal: Integral Part of the Solution* (August 10, 2020, 04:00 pm) <https://thecsrjournal.in/csr-policies-around-the-world/>

¹⁴ Hency Thacker, "CSR Policies Around The World", *The CSR Journal: Integral Part of the Solution* (August 10, 2020, 04:00 pm) <https://thecsrjournal.in/csr-policies-around-the-world/>

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

shifted from the earning of huge profits and generation of impressive turnovers to the undertaking of welfare schemes intending them as being under their respective CSR schemes. In order to effectively raise lump sum funds for tackling the Covid-19 pandemic, our PM Mr Narendra Damodardas Modi formed the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund or the PM CARES Fund in March, 2020. The PM is the chairman of the fund and the Defence Minister, Home Minister and Finance Minister are the trustees¹⁸. In April 2020, the government officials notified that the Prime Minister had the authority to appoint thirteen experts in order to determine the course of spending of the Fund's resource¹⁹. Initial announcements made regarding the fund dealt with the mobilization of foreign donations made. All foreign donations made to the PM CARES Fund are being exempted from Foreign Contribution (Regulation) Act, 2010.

The fund has been surrounded with controversies since its very inception. The fact that a similar fund Prime Minister's National Relief Fund or PMNRF whose main purpose is to collect funds and consolidate the donations made for dealing with national emergencies like natural disasters, pandemics, etc already existed did not explain the need of establishing another fund for a similar purpose. Another reason for the surrounding controversies was the initial ambiguity regarding the matter of the inclusion of PM CARES Fund and CM CARES Funds in the list of CSR activities as under Section 467²⁰. Donations made to the PMNRF which is similar in various aspects to the PM CARES Fund are considered as CSR activities within the ambit of Section 467²¹.

By way of a circular, the Ministry of Corporate Affairs cleared the air around the issue and declared that the money donated to PM CARES Fund will be counted as being a CSR activity. Section 467²² was amended so as to make the PM CARES Fund eligible for being counted as a CSR activity. The notification issued by the Ministry of Corporate Affairs notified that in Section 467²³ the following words shall be added: " In Schedule VII, item (viii), after the words " Prime Minister's National Relief Fund", the words - or Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) shall be inserted. " However, by way of this amendment made in, the CM CARES Fund was

¹⁸ Divyanshu Dutta Roy, "PM Modi Announces New COVID-19 Fund, Gets ₹ 25 Crore From Akshay Kumar", NDTV (August 11, 2020, 06:00 pm) <https://www.ndtv.com/india-news/pm-cares-pm-narendra-modi-announces-new-covid-19-fund-gets-rs-25-crore-from-akshay-kumar-2202275>

¹⁹ Aman Sharma, "PM-CARES fund to have up to 13 eminent experts", The Economic Times (August 11, 2020, 04:00 pm) <https://economictimes.indiatimes.com/news/politics-and-nation/pm-cares-fund-to-have-up-to-13-eminent-experts/articleshow/74956414.cms>

²⁰ The Companies Act, 2013

²¹ The Companies Act, 2013

²² Ibid

²³ Ibid

not included within the ambit of Section 467²⁴ despite the fact that it is strikingly similar in nature and purpose to the PM CARES Fund and PM National Relief Fund. The Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020 amended the provisions of the Income Tax Act in order to provide same tax rebates to the donations made in PM-CARES Fund as present for the donations made in Prime Minister National Relief Fund.

V. CONCLUSION

CSR has become a need of the current century. Give that the world has been facing dire situations of late, the duty of corporate houses to return some good to the society from which they have earned their existence has increased. Earlier known as social responsibility, Corporate Social Responsibility is also addressed as corporate citizenship. This implies the acceptance of corporate as a virtual citizen. The idea has been well accepted in India which is evident by the fact that the country was first in the world to legislate on CSR and make it mandatory for a certain category of corporate entities. Many other countries have also now made similar laws on CSR. However, the laws on CSR have also been criticized by people who hold the viewpoint that none shall be forced to commit good deeds. During the current period of Covid-19 pandemic, CSR related issues arose specifically with the formation of the PM CARES Fund as a similar fund already existed donations to which were considered as being a CSR activity unlike the new fund created. After much discussion on the issue, as per the notification issued by the Ministry of Corporate Affairs, donations made to PM CARES Fund are now a CSR activity, thus coming within the ambit of Section 135²⁵ and Section 467²⁶. However, controversy behind the exclusion of CM CARES Fund from the Companies Act, 2013 still persists due to the lack of reasoning given by the government officials regarding the same. Corporate Social Responsibility has fetched the government a good volume of funds for dealing with the pandemic. Despite the difference in opinions existing on CSR or the PM CARES Fund, it won't be wrong to say that CSR will again play instrumental role in dealing with the issues which our country and the world might face in future as it is a mere extension of an ordinary citizen's duty to the society.

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid